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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/368,011	08/03/1999	THOMAS MADELONE	MADE-0001	5013
23550	7590	11/25/2003	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC 3 E-COMM SQUARE ALBANY, NY 12207			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/368,011

Applicant(s)

MADELONE, THOMAS

Examiner

Kimberly T. Wood

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 10, 12-17, 22-24, 26, 38, 40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 12, 14-17 is/are allowed.
- 6) ☒ Claim(s) 9, 10, 13, 22-24, 26, 38, and 40 is/are rejected.
- 7) ☒ Claim(s) 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

This is the fifth office action for serial number 09/368,011, entitled Universal Fixture System and Base Therefor, in response to Amendment D filed on June 20, 2003.

***Allowable Subject Matter***

The indicated allowability of claims 38, 40, and 41 are withdrawn in view of the reference(s) to Shakespeare and Kujawski. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 112***

Claims 9, 10, 13, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9, 10 and 13 recites the limitation "The system of claim 8" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 8 has been canceled and claims 9, 10, and 13 depend from claim 8.

Claim 40 recites the limitation "the threaded aperture in the base" in line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Shakespeare 954,961. Shakespeare discloses an elongate body (18, 19, and 31), having a first end and a second end (19 and 31), a first set of support brackets (20 and 32) with each having a thru hole (40, 41, 38, and 39) and a fastener (33 and 21), a threaded aperture in the elongated body (where 43 and 42 are received in a threaded aperture within the elongate body "18"), a base plate (27), a base coupling (where 25 is received in the base plate), a threaded segment (25 and 35).

Claims 22, 23, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kujawaki 2,439,009. Kujawaki discloses a first rod (10), a housing (14) with channel (22) and coupling (23), a first support member (11) having a shaft (near 20) and a coupling (15), a second rod (12), means for locking the rods to the couplings, and means for locking the

Art Unit: 3632

support member to the housing (27), a base (18), a second support member (figure 2) having a shaft (23) and a coupling (22).

**Allowable Subject Matter**

Claims 1-7, 12, 14-17 are allowed.

Claims 9, 10, and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 41 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9306. The fax


Application/Control Number: 09/368,011

Page 5

Art Unit: 3632

number for an Unofficial Amendment or Response is (703) 308-3519.

Kimberly Wood  
Primary Examiner  
November 21, 2003



KIMBERLY WOOD  
PRIMARY EXAMINER